

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

STEVEN JAMES N. CASH,)

Plaintiff,)

v.)

Case No. CIV-15-346-F

CLEVELAND CO. SHERIFF;)

CLEVELAND CO. DETENTION)

CENTER,)

Defendants.)

REPORT AND RECOMMENDATION

Plaintiff, appearing pro se, initiated the present action under 42 U.S.C. § 1983 and United States District Court Judge Stephen P. Friot referred it to the undersigned Magistrate Judge for initial proceedings pursuant to 28 U.S.C. § 636(b)(1)(B), (C). For the reasons that follow, the undersigned recommends that the court dismiss Plaintiff's complaint without prejudice.

I. Analysis.

Plaintiff filed an application for leave to proceed in forma pauperis on April 2, 2015. Doc. 2. The undersigned ordered Plaintiff to cure his application by April 26, 2015, indicating that it is missing a certified copy of his institutional accounts statement for the six-month period preceding the complaint's filing. Doc. 5. Plaintiff did not cure the application, but submitted a change of address on April 22, 2015. Doc. 7. The undersigned construed language in that notice as suggesting that Plaintiff intended to

cure his application once he “[got] to a yard” and sua sponte extended Plaintiff’s deadline to May 20, 2015. Doc. 8. The undersigned cautioned Plaintiff that a failure to comply would likely result in the court dismissing the action. *Id.*

To date Plaintiff has not responded to this Court’s orders. He has not cured the deficiency, shown good cause for his failure to do so, or requested an extension of time to comply with the orders. The undersigned finds that Plaintiff’s failure to comply with this Court’s orders, together with the Court’s right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (noting the Court applies Fed. R. Civ. P. 41(b) to allow sua sponte dismissal for “failure to . . . comply with the rules of civil procedure or court’s orders”).

II. Recommendation and notice of right to object.

Despite being granted two opportunities, Plaintiff has failed to correct the deficiency in his application to proceed in forma pauperis and has not otherwise responded to the court’s orders. So, the undersigned recommends that the court dismiss Plaintiff’s complaint without prejudice.

The undersigned advises Plaintiff of his right to file an objection to the report and recommendation with the Clerk of this Court by June 21, 2015 in

accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). The undersigned further advises Plaintiff that failure to make timely objection to the report and recommendation waives the right to appellate review of both factual and legal questions contained herein. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation terminates the referral.

ENTERED this 1st day of June, 2015.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE